REMARKS/ARGUMENTS

Status of Claims

Claims 1-22 stand rejected.

Claims 1 and 2 are currently amended.

Thus, claims 1-22 are pending in this patent application.

The Applicant hereby requests further examination and reconsideration of the presently claimed application.

Claim Objections

Claim 1 stands objected to under 37 CFR § 1.75(c) because of an informality. Claim 1 has been amended to overcome the objection, thus the objection should be withdrawn.

Claim Rejections – 35 U.S.C. § 112, Second Paragraph

Claims 2-5 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. Specifically, the Examiner asserted that the term "the control links" in claim 2 lacked antecedent basis, and that claims 3-5 were rejected because they depend from claim 2. Claim 2 has been amended to overcome the § 112, second paragraph, rejection, thus the § 112, second paragraph, rejections should be withdrawn.

Claim Rejections – 35 U.S.C. § 103

Claims 1-11 and 19-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0175029 (*Harney*) in view of U.S. Patent Application Publication 2003/0169729 (*Bienn*). Claims 12-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Harney* in view of U.S. Patent Application 2004/0145147 (*Picard*). Claims 2-22 depend from independent claim 1, thus claims 1-22 stand or fall on the application of the

combination of *Harney* and *Bienn* to independent claim 1. The United States Supreme Court in *Graham v. John Deere Co. of Kansas City* noted that an obviousness determination begins with a finding that **"the prior art as a whole in one form or another contains all" of the elements of the claimed invention**. *See Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 22 (U.S. 1966). The Applicant respectfully asserts that the combination of *Harney* and *Bienn* fails to disclose all of the limitations set forth in independent claim 1, and consequently fails to render obvious claims 1-22

The combination of *Harney* and *Bienn* fails to render obvious claims 1-22 because the combination of *Harney* and *Bienn* fails to disclose that the connection migration request message is forwarded node by node from an ingress node to an ingress node along a connection, and that that the message is transmitted on a control plane. Claim 1 reads:

> 1. A method for migration between a permanent connection and a switched connection in a transmission network, the method comprising:
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> a) after receiving **a message of connection migrating request**, **forwarding**, by an ingress node of a current connection, **the message of the connection migrating request node by node** in a direction of traffic signal transmission of the current connection starting **from the ingress node until an egress node of the current connection**; **the message** being signaling, comprising the connection migrating request, and **is transmitted on a control plane**; and
>
> b) making migration between the permanent connection and the switched connection node by node after receiving the message of connection migrating request.

(Emphasis added). As shown above, claim 1 recites that the connection migration request message is forwarded **node by node from an ingress node to an ingress node** along a connection. In contrast, *Harney* discloses **the input side and output side of a single node**:

> FIGS. 12A and 12B illustrates [sic] a service affecting technique for migrating from static optical networking to static plus agile optical networking. In this alternative embodiment, **2x2 switches 102 are located at the input and output of the fixed optical add/drop multiplexer 104**. The switches 102 are initially configured to pass through the optical multiplexed signal as shown in FIG. 12A. The fixed optical add/drop multiplexer 104 enables manual connection of static data signals.
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> **On the input side of the node**, a signal splitter 114 is located between the 2x2 switch 102 and the photonic switch 106. The signal splitter 114 receives an optical multiplexed signal from the switch 102 and splits it into two optical multiplexed signals. One of the optical multiplexed signals is directed to the photonic switch 106; whereas the other optical multiplexed signal is routed back through the 2x2 switch 102. The photonic switch 106 can switch the agile data signals, thereby enabling agile optical networking. The 2x2 switch 102 also provides a return path for the static signal channels to the fixed optical add/drop multiplexer 104.
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> **On the output side of the node**, a signal combiner 116 is located between the 2x2 switch 102 and the photonic switch 106. The signal combiner 116 receives an optical multiplexed signal from the 2x2 switch 102 and the photonic switch 106. The signal combiner 116 in turn combines the two optical multiplexed signals and launches the combined signal into an outgoing optical transport line system.

Harney, ¶¶ 39, 41, & 42 (emphasis added); *see also Harney*, FIGS. 12A & 12B. As shown above, *Harney* discloses the input side and output side of a single node, not a plurality of nodes extending from an ingress node to an egress node along a connection. Thus, *Harney* fails to disclose that the connection migration request message is forwarded node by node from an ingress node to an ingress node along a connection. In addition, claim 1 recites that the message is transmitted on a control plane. In contrast, *Harney's* signal transmission occurs only in the transport plane:

> In a WDM optical transport network, numerous **optical data signals** are multiplexed together to form a single optical system signal. The optical system signal may be constituted in an optical line hierarchy as is known in the art. For example, the optical system signal may be constructed from a plurality of optical band signals, where each of the optical band signals is constructed from a plurality of optical waveband signals and each of the optical waveband signals are constructed from a plurality of optical wavelength signals. Although **the fixed optical add/drop multiplexer 12 preferably operates to add, drop, manually route, or otherwise manipulate optical wavelength signals**, it is readily understood that the multiplexer may support optical data signals at any one of the hierarchical layers that form an optical system signal. Optical band signals and optical waveband signals are herein referred to as optical multiplexed signals.

Harney, ¶ 23 (emphasis added). As shown above, *Harney's* signal transmission occurs only in the transport plane, not in the control plane. Thus, *Harney* fails to disclose that the message is transmitted on a control plane. *Bienn* fails to make up for the deficiencies in *Harney*. As such, the combination of *Harney* and *Bienn* fails disclose at least one element of independent claim 1, and consequently fails to render obvious claims 1-22.

CONCLUSION

Consideration of the foregoing amendments and remarks, reconsideration of the application, and withdrawal of the rejections and objections is respectfully requested by the Applicant. No new matter is introduced by way of the amendment. It is believed that each ground of rejection raised in the Office Action dated November 12, 2009 has been fully addressed. If any fee is due as a result of the filing of this paper, please appropriately charge such fee to Deposit Account Number 50-1515 of Conley Rose, P.C., Texas. If a petition for extension of time is necessary in order for this paper to be deemed timely filed, please consider this a petition therefore.

If a telephone conference would facilitate the resolution of any issue or expedite the prosecution of the application, the Examiner is invited to telephone the undersigned at the telephone number given below.

Respectfully submitted,
CONLEY ROSE, P.C.

Date: 2/11/10

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